

# General Terms and Conditions for the supply of products and performance of services from Beritech Group

## 1. Terms of use

1.1. These General Terms and Conditions for the supply of products and performance of services from Beritech (“**The Terms**”) shall apply to all legal relationships of Beritech Group or its affiliates (in the following referred to as “**Beritech**”), where Beritech by issuing an Order Confirmation (In the following referred to as an “**OC**”) acts as a (potential) seller of Supplies, Services, Deliverables, Goods, etc. (in the following referred to as “**The Work**” or “**Works**”), unless other written agreement rules.

1.2. Beritech consists of several Group Companies wholly or partly owned or controlled by Beritech Group. Any Group entity who after the effective date becomes wholly or partly owned or controlled (as applicable), shall automatically become a part of these Terms and Beritech is entitled to assign all rights and obligations in relation to execution of a contract to any entity within the Group.

1.3. Any commercial terms stipulated in the Purchaser’s proposal or Purchase Order shall have no validity or effect between the Purchaser and Beritech, unless reproduced in Beritech’s OC.

1.4. The OC constitutes the full agreement between Beritech and the Purchaser. No information or data contained in e-mails, price lists or any other documents, as well as correspondence or statements made outside the Agreement etc. are intended to have or will have contractual effect, unless expressly agreed otherwise in writing.

1.5. Purchaser is responsible for providing Beritech with all relevant information, including technical specifications, drawings and other relevant information required by Beritech, in the file formats required by Beritech.

1.6. If the OC does not conform with Purchaser’s purchase order, the agreement shall be entered into on the terms stipulated in the OC including these Terms. Purchaser shall, without undue delay, object to such non-conformity in writing. Any deviation from the OC and/or these Terms must be explicitly agreed in writing between Beritech and Purchaser to apply.

## 2. Definition

- 2.1. “**Beritech**” means Beritech Group A/S, Company registration no.: 41723637 and any of its affiliates as defined in the OC.
- 2.2. “**Purchaser**” means the company with whom Beritech has executed the OC.
- 2.3. “**Contract Price**” means the total amount payable by the Purchaser to Beritech in consideration of the provision of the Service, as specified in the OC.
- 2.4. “**Defects Notification Period**” shall have the meaning ascribed to it in Clause 8.1.
- 2.5. “**Goods**” means the goods, products, materials, objects, components, machinery, equipment and/or documentation, if any, to be delivered by Beritech as part of the Service, as further specified in the OC.
- 2.6. “**OC**” means the Order Confirmation issued by Beritech including all documents attached and/or referred to, irrespective of the form and nature of such agreement, including but not limited to: (i) a sales quotation from Beritech signed by the Purchaser; or (ii) a sales quotation from Beritech and a purchaser order from the Purchaser.
- 2.7. “**Party**” means either Beritech or the Purchaser, as the context requires.
- 2.8. “**Parties**” means Beritech and the Purchaser.
- 2.9. “**Service**” means all the services and deliverables to be provided by Beritech to the Purchaser under the OC, including the Goods, if any.

## 3. Parties General Obligations

3.1. Beritech undertakes to provide the Service specified in the OC in accordance with the time limits, quality and performance agreed.

upon and in a proper and workmanlike and careful manner.

3.2. Beritech is free to subcontract its obligations under the OC and/or Terms or any part thereof without the prior written consent from Purchaser.

## 4. Delivery

4.1. Any Goods to be delivered as part of the Service shall be delivered in accordance with the Ex Works (EXW) INCOTERMS 2020® at the place named by Beritech, unless agreed otherwise in the OC.

## 5. Time of Delivery and Delay

5.1. Beritech is obliged to deliver the Service in accordance with the agreed time of delivery stated in the OC. If no delivery date has been specified, delivery shall be made on a date deemed reasonable by Beritech. Beritech will contact Purchaser before the delivery, for the purchaser to arrange transport. If the Work is a service, the service shall be performed during the period specified in the OC and completed at the date mentioned.

5.2. If Purchaser is unable to accept delivery at the agreed time of the delivery, Beritech will arrange transport or storage (as applicable) at Purchaser’s own risk and expense, unless a new time of delivery is agreed in writing.

5.3. If Beritech finds that it will not be able to deliver the Service in time or if delay on its part seems likely, Beritech shall by written notice without undue delay inform the Purchaser thereof. Beritech shall in this notice state the reason for the delay and if possible, the time when the Service will be ready for delivery.

5.4. If the delay is caused by: (i) force majeure; (ii) by an act or omission caused by or attributable to the Purchaser; (iii) or any other circumstances not attributable to Beritech, Beritech shall be entitled to extend the time of delivery by a period which is necessary having regard to all the circumstances of the case. This provision shall apply regardless of whether the reason for the delay occurs before or after the agreed time of delivery.

5.5. Purchaser is obliged to inspect the Work at the time of delivery and the absence of an inspection may deprive (by way of expiration, extinguishment or otherwise) Purchaser of his/her rights or remedies, should the Work not conform with the OC/or Terms. Any defects or non-conformity that is detected by such inspection, shall be reported in accordance with Clause 15.1, if it is to be taking into consideration by Beritech.

## 6. Variations

- 6.1. Purchaser is entitled to alter and/or adjust the scope and demand Variation(s) until the Service is ready for delivery.
- 6.2. If a Variation requested by Purchaser only can be performed at additional costs or with an impact on the time for completion, Purchaser must, upon a notice from Beritech in accordance with Clause 15, admit Beritech additional time for completion and/or additional payment. Parties shall reach a mutual agreement regarding any additional time and/or payment in accordance with this Clause. However, any delay attributable to Purchaser’s wish for a Variation and/or reaching an agreement on such additional payment and/or the adjustment of the time for completion shall not entitle Purchaser to remedies.
- 6.3. If the Parties cannot reach a mutual agreement both Parties can terminate the OC without liability, provided that Beritech shall be paid the reasonable, documented costs with a reasonable and market conform profit of no less than 20%.

## 7. Suspension

7.1. If Purchaser’s obligations are not fully performed, Beritech shall be entitled to suspend progress of part of or all the Works by giving 1 (one) week written notice to the Supplier hereof. The right to suspend applies to all ongoing contracts between the Parties. During such suspension Beritech shall protect, store, and secure such parts or the Work against any deterioration, loss, or damage. Suspension may be initiated by means of a lack of payment, guarantee, request of a Variation or any other event which causes or risks damage and/or losses to Beritech.

7.2. If the Purchaser causes, requests or instructs Beritech to suspend and/or delay, the Purchaser shall give 1 (one) week notice to Beritech and admit an extension of time for any such delay, and/or payment of any such costs that are a direct consequence of the suspension.

7.3. In case Beritech Group and Purchaser has more than one ongoing contract, and Purchaser has failed to perform obligations under one or more of these contracts, Beritech reserve the right to withhold delivery or suspend progress of one or any of the ongoing contracts, until all outstanding receivables have been paid.

## 8. Defects

8.1. Beritech has a right and an obligation to remedy any defect or non-conformity resulting from faulty design, materials or workmanship (hereinafter a “**Defect**”) provided that the Purchaser has notified Beritech without undue delay after it became aware of such Defect, and provided that the Purchaser has notified Beritech hereof within twelve (12) months after the completion of the Service (hereinafter the “**Defects Notification Period**”). The notice shall contain a description of the relevant Defect. Notwithstanding the foregoing, Beritech is not liable for any Defect due to: (i) normal wear and tear; (ii) incorrect use or maintenance; (iii) Defects due to the Purchasers drawings, designs or instructions; (iv) modifications carried out by or on behalf of the Purchaser without Beritech’s prior written consent.

8.2. The Defect Notification Period is to be extended by additionally twelve (12) months for any part of the Work, which is repaired, replaced, or renewed according to Clause 8.1, but never more than twenty-four (24) months from the Completion of the Services. Such an extension of the Defect Notification Period will commence on the date that Beritech completed the repair, replacement, or renewal of the relevant part of the Work.

8.3. If the Purchaser fails to notify Beritech in writing of a Defect within the time limits set forth in Clause 8.1, Beritech shall be discharged from all liability in connection with the claim.

8.4. The Purchaser shall at its own expense provide access to the parts that are suffering from the Defect and shall arrange for any necessary measures to uncover and lay open such parts to the extent that this is necessary to remedy the Defect. Beritech is under no circumstances liable for any defect occurred on any product, equipment etc. not delivered by Beritech.

8.5. If the Purchaser has given such notice as mentioned in Clause 8.1 and no Defect is found for which Beritech is liable, Beritech shall be entitled to compensation for the costs incurred as a result of the notice.

## 9. Limitation of Liability

9.1. Neither Party shall be liable to the other Party for loss of production, loss of use, loss of profit or revenues (other than from the Contract Price), loss of data, downtime or for any other indirect or consequential, special or punitive loss or damage which may be suffered by the other Party in connection with the OC.

9.2. Beritech’s liability is in all circumstances limited to 100 % of the Contract Price. However, the aggregate liability shall not be limited in any case of personal injuries caused by intentional misconduct or gross negligence.

9.3. Beritech shall not be liable for nor remedy any defects arising out of information or documents provided by Purchaser or a design stipulated or specified by Purchaser.

9.4. For liability related to the Product Liability Directive the applicable Law shall govern cf. clause 16.1.

## 10. Risk and Transfer of Risk

10.1. Beritech undertakes the full risk and responsibility for the care of the Work until ready for delivery. However, Purchaser shall be liable for any direct loss or damage caused by any actions performed by the Purchaser after the delivery, as well as any direct loss or damage which occurs before the delivery, but which is caused by a previous event for which the Purchaser was liable.

### 10.2. Retention of title

Beritech shall retain title to all deliveries until payment has been made in full, including incurred costs and interest etc. Claiming retention of title shall not be considered a termination of the OC and shall not release Purchaser from performing its obligations.

10.3. Beritech reserves all rights to technical specifications, pictures, drawings, and other relevant information supplied by Beritech.

Such material is not to be copied, reverse engineered, shared, or made public and must be returned or deleted upon demand.

## 11. Pricing and Payment Terms

11.1. The Purchaser shall pay the Contract Price set out in the OC in consideration of Beritech’s provision of the Service.

11.2. If the Parties have agreed in the OC that the Contract Price is a fixed lump sum, the Purchaser shall pay this fixed amount without regard to Beritech’s actual consumption of time and materials.

11.3. If the Parties have agreed in the OC that the Contract Price shall be determined on a time and material basis, the Purchaser shall pay the amount determined based on: (i) the actual time spent by Beritech and Beritech’s subcontractors; and (ii) the materials used for the provision of the Service, including the Goods, if any. If the Parties have agreed on certain unit rates in the OC, the time and materials shall be priced in accordance with such unit rates. If no applicable unit rates have been agreed, the time and material shall be priced based on Beritech’s standard rates, provided that such rates must not be unreasonable considering the market value.

11.4. Unless agreed otherwise in the OC, Beritech may invoice 50 % of the Contract Price by entering the OC and 50 % of the Contract Price upon delivery of the Service. The Purchaser shall pay the invoice(s) from Beritech within 20 days from the invoice date.

11.5. If the Service is varied, altered, delayed or suspended due to any events or circumstances for which the Purchaser or any of his other suppliers or subcontractors is responsible, Beritech shall, in addition to the agreed Contract Price for the Service, be entitled to payment for: (i) waiting time and time spent on extra journeys; (ii) additional expenses for journeys and board and lodging for Beritech’s personnel; or (iii) any other costs and expenses that can be documented by Beritech to have been incurred as a result of such events or circumstances.

11.6. If the Purchaser fails to pay an amount by the agreed due date, Beritech shall be entitled to suspend the provision of the Service, subject to 3 days’ prior written notice. Further, Beritech is entitled to interest from the day on which payment became due at a rate of interest equal to 2 % added per month.

## 12. Preparatory examinations and installations

12.1. In case preparatory examinations, inspections or installations are required to take place at Purchaser’s place of business, for Beritech to perform its obligations and services, Purchaser shall ensure that all necessary conditions and equipment for performing the services are ready and available on site.

12.2. Purchaser shall make available, free of charge and at the appropriate time, all necessary helping materials, lifting- and transporting equipment, auxiliary tools and/or supplies, including power, water, air, gas, heat and lighting etc. Purchaser shall always secure, that all safety regulations as well as working environment regulations are maintained on site.

12.3. In case it deems necessary that any Beritech personnel stays on site for a prolonged period, in order to perform or remedy under the OC, Purchaser shall ensure the availability of required offices, access to internet, storage facilities and lodging in the nearby neighbourhood, including access to acceptable hygiene facilities and medical services.

12.4. Purchaser shall ensure that any brought tools or materials are stored safely and dry, and well protected from damage or risk of theft or vandalism, in the period of which it is brought onto the site and until it is processed and/or installed.

## 13. Force Majeure

13.1. The following circumstances shall be considered events of force majeure (“**Force Majeure**”) if they intervene after the formation of the OC and impede its performance: Fire, war, scarcity of minerals or shortage of goods, quarantine restrictions, mobilisation or requisition, embargo, currency restrictions, and riots and insurrection, provided the said circumstance could not be foreseen and could not reasonably be prevented or overcome by the Party invoking the Force Majeure. In the event of Force Majeure, both Parties have a duty to seek to minimise any delay in the execution of the Works.

13.2. The Party invoking the Force Majeure by reason of any of the said circumstances shall notify the other Party in writing with undue delay of the occurrence of an event of Force Majeure and of the cessation thereof. Should delay be caused by any of the circumstances set out in Clause 13.1 above, an extension of the delivery/payment period shall be granted for the period the Force Majeure event prevails. In these cases, the other Party has no right to demand indemnity for damage, provided, however, that if the event of Force Majeure preventing

performance shall continue for more than 3 (three) months, either Party may terminate the OC with a written notice to the other without any liability hereunder.

17.4. Beritech reserves the right to amend these General Terms and Conditions at any given time. The governing version can always be found at [www.beritech.dk](http://www.beritech.dk).

#### **14. Termination**

14.1. Beritech may give notice to terminate the OC and/or Terms fully or partly (termination for cause) with immediate effect if:

- (i) The Purchaser commits any material breach of the OC and/or Terms and, if such a breach is remediable, fails to remedy that breach within fourteen (14) calendar days of Purchaser being notified of the breach.
- (ii) An order is made or a resolution is passed for winding-up Purchaser, or if an order is made for the appointment of an administrator to manage the affairs, business and property of Purchaser, or if circumstances arise which entitle a court or a creditor to appoint a receiver or manager or which entitle a court to make a winding-up order, or if the Supplier takes or suffers any similar or analogous action in consequence of debt;
- (iii) The Purchaser purports to assign its rights or obligations in contravention with the OC and/or Terms.
- (iv) Purchaser experiences substantial changes to the legal or financial status, ownership structure or shareholding relationships, or changes take place in the company management of the Supplier such that it would be unreasonable to expect Beritech to continue to adhere to the OC and/or Terms.
- (v) The performance of the OC has been suspended due to Force Majeure for more than three (3) months.

14.2. After a termination based on the events or circumstances described in Clause 14.1, sub- paragraph (i)-(v), Beritech shall be entitled to recover from Purchaser any loss or damage incurred by Beritech. Beritech shall have no further liability towards Purchaser in respect of the OC and/or Terms.

#### **15. Claims Procedure**

15.1. If Purchaser considers him/her-self to be entitled to claims under any Clause of the OC and/or Terms or otherwise, the Purchaser shall submit a written notice to Beritech identified as a "notice", describing the event or circumstances giving rise to the claim. The notice shall be given as soon as practicable and no later than seven (7) days after the Purchaser became aware, or should have become aware, of the event or circumstances. Further, the Purchaser shall no later than thirty (30) days after the Purchaser became aware, or should have become aware, of the event or circumstances giving rise to the claim, submit a detailed claim to Beritech with all reasonable supporting particulars.

15.2. If the Purchaser fails to give notice to Beritech in accordance with Clause 15.1, reimbursement shall not be granted, and the Purchaser shall not be entitled to any additional remedy, and Beritech shall be discharged from all liability in connection with the claim.

#### **16. Governing law and Jurisdiction**

16.1. The OC and/or Terms shall be construed and interpreted pursuant to the laws of Denmark to the exclusion of any rule that would refer the subject matter to another forum.

16.2. Any dispute arising out of or in connection with this Terms or the OC, including any disputes regarding the existence, validity, or termination thereof, shall be resolved exclusively by the District Court in Aalborg (In Danish: Retten i Aalborg) as the first jurisdiction and the legal proceedings shall take place in Danish.

#### **17. Miscellaneous provisions**

17.1. The headings used in the Terms are included for ease of reference and shall not be taken into consideration in the interpretation of a specific clause of the Terms.

17.2. If any clause or part of a clause shall be determined by a court or authority of proper jurisdiction to be invalid or unenforceable, the affected clause will be limited or eliminated only to the extent necessary, and the remainder remain valid and in full force and effect.

17.3. A waiver of any Terms or any breach of the OC and/or Terms by either Party, shall not be deemed a waiver of any repetition of such breach or a waiver of compliance with a term or condition or in any way affect any other terms or conditions hereof, unless signed by the Party giving such waiver. The failure of either Party to enforce any of the provisions of the OC and/or Terms shall not be construed to be a waiver of such provisions nor of the right of the given Party thereafter to enforce each such provision.